

REMARKS

Claims 1 to 21 and 23 are in the application. Claims 1, 7 and 13 are independent.

Favorable reconsideration and further examination are respectfully requested.

Initially, Applicant thanks the Examiner for taking the time to conduct a telephone interview with the undersigned on February 28, 2005. While no specific agreement was reached during the interview, the Examiner did indicate that he would view the claims more favorably if amended in the manner set forth above. Accordingly, this response is being filed to make the foregoing amendments to the claims. At the instruction of the Examiner, a Request For Continuing Examination (RCE) is being filed concurrently herewith.

In the Office Action, claims 1, 2, 3, 5, 7 to 9, 11 to 19 and 22 were rejected over WO9847112 (Miller) in view of U.S. Patent No. 6,424,884 (Brooke) and one of the following U.S. Patents: 5,991,749 (Morrill), 6,415,142 (Martineau), 5,796,832 (Kawan), and 6,356,752 (Griffith). Claims 4 and 10 were rejected over these patents in further view of U.S. Patent No. 6,283,367 (Matthew); and claims 6, 20 and 21 were rejected in further view of U.S. Patent No. 5,844,808 (Konsmo) or U.S. Patent No. 6,462,644 (Howell). These rejections were maintained in an Advisory Action dated November 17, 2004. As explained above, Applicant has amended the claims in a manner that is believed to clearly define over the references. In view of these amendments, withdrawal of the art rejections is respectfully requested.

Amended independent claim 1 defines a method of dispensing a product from a vending machine using a cellular telephone, where the vending machine comprises (a) a retrieving device for obtaining a product from the vending machine, (b) a communication device connected to a

communication network, and (c) a dispensing device for dispensing the product from the vending machine. The method comprises receiving, at the communication device at a start of the method, a signal that corresponds to a call from the cellular telephone. The signal is for establishing a network connection between the communication device and the cellular telephone. The network connection can be established only if there is product in the vending machine to be dispensed. The method also comprises issuing a response message from the communication device in reply to the signal, where the response message indicates that the network connection has been established; outputting an audible message for use in selecting the product from the vending machine, where the audible message comprises a menu; and receiving, at the retrieving device, information indicating that the product has been selected following output of the audible message. The product is dispensed via the dispensing device based on the information.

The applied art is not understood to disclose or to suggest the foregoing features of claim

1. In particular, the art is not understood to disclose or to suggest (a) outputting an audible message for use in selecting the product from the vending machine, where the audible message comprises a menu and where the retrieving device receives information indicating the product has been selected following output of the audible message, or (b) establishing the network connection (which “enables” dispensing product) between the communication device and the cellular telephone only if there is product in the vending machine to be dispensed.

In this regard, it was admitted, on page 2 of the Office Action, that Miller does not disclose or suggest receiving a call from a cellular telephone at a start of the method in order to establish a connection to the cellular telephone, where the connection enables the vending

machine (see page 2 of the Office Action). Accordingly, Miller could not possibly disclose or suggest establishing such a connection only if there is product in the vending machine to be dispensed. Brooke, Kawan, Griffith, Morrill and Martineau, however, were cited for their alleged disclosure of establishing a network connection using a cellular device. Brooke describes using a transponder to communicate with a vending machine. Brooke's transponder establishes a connection to the vending machine using a predetermined code (see, e.g., column 4, lines 44 et seq. of Brooke), and a credit amount allocated to a transponder (see, e.g., column 5, lines 37 et seq. of Brooke). Brooke, however, does not disclose or suggest establishing a network connection only if there is product in the vending machine to be dispensed. Kawan, Griffith, Morrill and Martineau are likewise not understood to disclose or to suggest this feature.

Griffith describes using a wireless telephone as a transaction device. As explained in column 3, lines 41 et seq. of Griffith, a connection is established by verifying a user identity. Morrill describes using a cellular telephone as a transponder/identifier for use in payment of fees and the like (e.g., for parking, bus fare, vendor transactions, and the like). Kawan describes a financial transaction system that employs smart cards to verify transaction authorizations. Martineau describes a system for making purchases using a smart card, in which prepaid units are subtracted from the smart card in response to a purchase. Connection between the smart card and a network is established via a certificate stored on the smart card (see, e.g., column 6, lines 45 et seq. of Martineau). The Kawan, Griffith, Morrill and Martineau systems thus do not establish a network connection between a communication device and a cellular telephone only if there is product in a vending machine to be dispensed.

Howell describes a wide area network that uses cellular telephone technology to allow vending machines 102 to communicate with a data warehouse 110, e.g., to determine when the vending machines need to be replenished (see, e.g., Fig. 1 of Howell). Konsmo also describes a system for monitoring remote vending machines. The Howell and Konsmo systems, however, also do not establish a network connection between a communication device and a cellular telephone only if there is product in a vending machine to be dispensed.

Regarding outputting an audible message for use in selecting the product from a vending machine, where the audible message comprises a menu, Mathew was cited for its disclosure of an IC card reader with synthesized voice output. In Mathew, an IC card is inserted into a reader. The reader synthesizes voice from the IC card and outputs the synthesized voice. The synthesized voice typically states a balance on the smart card, but also may be used to read non-monetary data (see, e.g., column 2, lines 36 et seq. and column 6, lines 35 et seq. of Mathew). Thus, while Mathew describes synthesized voice, Mathew does not indicate that this voice can be an audible message comprising menu for use in selecting the product from a vending machine, much less that a retrieving device receives information indicating that a product has been selected following output of the audible message.

For at least the foregoing reasons, Applicant submits that claim 1 is patentable over the art. Amended independent claims 7 and 13 are apparatus and system claims that roughly correspond to claim 1. These claims are also believed to be patentable for the reasons noted above.

The dependent claims partake of the novelty of their parent claims and, although it is believed that each dependent claim defines a separate patentable feature, for this reason the dependent claims are not discussed here in detail.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

In view of the foregoing amendments and remarks, the entire application is now believed to be in condition for allowance, and such action is respectfully requested at the Examiner's earliest convenience.

SUBMISSION OF PRIORITY DOCUMENT

The June 1st Office Action indicates that the priority document for this application has not been received. Accordingly, Applicant is submitting herewith a certified copy of the German application from which the subject application claims priority, namely DE10000948.4. Acknowledgement of receipt of this priority document is respectfully requested.

CONCLUSION

Applicant's attorney can be reached at the address shown below. Telephone calls regarding this application should be directed to 617-521-7896.

Finally, Applicant notes that the accompanying RCE request entry of this Amendment and the Amendment filed in this application on September 29, 2004. Accordingly, the bracketing and underlining shown above takes into account the changes made in the September 29th Amendment.

No fee is believed to be due for this Amendment. However, if any fees are due for the Amendment, the accompanying two-month Petition For Extension Of Time, or the accompanying RCE, please apply such fees to Deposit Account 06-1050 referencing 12758-002001.

Respectfully submitted,

Date: _____

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